UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JANE DOE, Individually and
As Next Friend of JULIE DOE, a minor,

Plaintiffs,

v.

MYSPACE, INC., and
NEWS CORPORATION,

Defendants.

No. 06-cv-7880 (MGC/AJP)

# PLAINTIFFS' OPPOSITION TO DEFENDANT MYSPACE, INC.'S MOTION TO DISMISS

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Dated: November 6, 2006

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Plaintiffs Jane Doe, Individually as next friend of Julie Doe, a minor, respectfully requests that this Honorable Court deny MySpace's Motion to Dismiss. The Court should deny the motion because:

1) The Communications Decency Act is inapplicable to Plaintiffs' claims and provides MySpace no immunity in this case;

2) Regardless of whether New York or Texas common law governs this case, both contemplate liability for MySpace's conduct;

3) Plaintiffs' fraud and negligent misrepresentation claims satisfy the federal pleading requirements; and

4) Plaintiff Julie Doe, a 13 year-old minor, cannot be held to MySpace's Terms of Use Agreement; and even if she could, the agreement does not release MySpace from liability for its misrepresentations.

Accordingly, Plaintiffs request that the Court deny MySpace's Motion to Dismiss and allow this important case to proceed.

Respectfully submitted,

By: Scott Gilly

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## CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2006, this document was served via facsimile and certified mail, return receipt requested, to the following counsel of record:

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